

**FILED**

**JUN 13 2006**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

OLD REPUBLIC INSURANCE  
COMPANY,

Plaintiff - Appellee,

v.

ROBERT GRIFFIN,

Defendant - Appellant,

and

LOIS JENSEN,

Defendant.

No. 03-16671

D.C. No. CV-02-00252-LRH

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the District of Nevada  
Larry R. Hicks, District Judge, Presiding

Argued and Submitted February 15, 2005  
Submission Withdrawn June 15, 2005  
Resubmitted June 9, 2006  
San Francisco, California

Before: D.W. NELSON, W. FLETCHER and FISHER, Circuit Judges.

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<sup>\*</sup>This disposition is not appropriate for publication and may not be cited to  
or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

In a March 16, 2005 published order, we certified the following question to the Nevada Supreme Court: “Under Nevada law, may an insurer deny coverage under an aviation insurance policy for failure to comply with an unambiguous requirement of the policy or is a causal connection between the insured’s noncompliance and the accident required?” *Old Republic Ins. Co. v. Griffin*, 402 F.3d 876, 881 (9th Cir. 2005) [hereinafter *Griffin I*].

The Nevada Supreme Court accepted certification of the above question and held that “insurers need not establish a causal connection between an aviation policy exclusion and the loss in order to avoid liability so long as the exclusion is unambiguous, narrowly tailored, and essential to the risk undertaken by the insurer.” *Griffin v. Old Republic Ins. Co.*, No. 449902, 122 Nev. Adv. Op. No. 42 at 2, 2006 Nev. LEXIS 54 at \*1-2 (May 11, 2005) (en banc) [hereinafter *Griffin II*]. We have already held that the exclusion in this case was unambiguous. *See Griffin I*, 402 F.3d at 878. Describing when an exclusion is narrowly tailored and essential to the insurer’s risk, the Nevada Supreme Court concluded that the insurance exclusion at issue here met both requirements. *See Griffin II*, 122 Nev. Adv. Op. No. 42 at 9-11, 2006 Nev. LEXIS 54 at \*12-14. Therefore, Old Republic is not obligated to establish a causal connection between Dr. Jensen’s

failure to maintain a valid airworthiness certificate and his subsequent crash that injured Griffin in order to avoid liability for the loss claimed by Griffin.

In our March 16, 2005 order we stated that “[i]f no causal connection is required, we would affirm the judgment of the district court in full.” *Griffin I*, 402 F.3d at 878 n.2. Because the Nevada Supreme Court has definitively ruled on this issue, we now affirm the district court’s grant of summary judgment in favor of Old Republic.

**AFFIRMED.**